Kansas City, Mo. 64141, filed in Docket No. CP78-137 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline, compressor, and related facilities appurtenant to Applicant's existing Anadarko Basin West End pipeline systems connecting the Texas, Kansas, and Oklahoma gas supply areas to its mainline at its Haven, Kans., compressor station, and authorizing the construction and operation of pipeline, compressor, and related facilities in Weld and Adams Counties, Colo., appurtenant to its existing Rocky Mountain gathering system, all as more fully set forth in the application which is on file with the FERC and open to public inspection.

Applicant proposes to construct, place in service and operate the following facilities:

(1) 6,700 horsepower of new compression facilities and the relocation of 2,600 horsepower of existing compression facilities in Weld and Adams Counties, Colo., appurtenant to existing gathering lines owned by Applicant;

(2) 7,800 horsepower of new compression facilities and the relocation of 1,750 horsepower of existing compression facilities in Grant, Morton, and Seward Counties, Kans., and Texas County, Okla.;

(3) One mile of 8-inch pipeline to be located in Adams County, Colo.;

(4) 8.6 miles of 8-inch pipeline located in Stevens County, Kans.;

(5) 2.1 miles of 8-inch and 3.3 miles of 6-inch pipeline located in Morton County, Kans.

(6) 4.5 miles of 12-inch and 1.3 miles of 8-inch pipeline located in Grant County, Kansas;

(7) 5.5 miles of 10-inch pipeline located in Seward County, Kansas;

(8) 2 miles of 8-inch pipeline located in Beaver County, Oklahoma;

(9) 1.1 miles of 8-inch pipeline located in Dewey County, Oklahoma.

Applicant states that the installation and operation of the proposed facilities will assist it in maintaining its ability to deliver existing gas supplies into its mainline system and that all facilities will be installed adjacent and parallel to existing facilities and will augment and supplement the existing facilities. Applicant further states that the total cost of the proposed facilities is estimated to be $11,136,000 which cost will be financed from funds available to the Company.

It is asserted that Applicant has experienced a continuing decline in reservoir pressures within its traditional gas production area, and in order for Applicant to produce gas from reservoirs which have experienced declines in pressure, Applicant has been required to operate its gathering facilities at lower pressures and to add additional compression horsepower to its gathering systems. The proposed pipeline and compressor horsepower proposed would assist Applicant in recovering contractual volumes of natural gas from reservoirs which have suffered declines in pressure and would enable Applicant to meet its contractual obligations to its producers with respect to reducing the line pressure on its Colorado gathering system, it is asserted.

Applicant states that upon completion of the installation and construction of the facilities proposed herein, it anticipates increases in deliverability of its respective gathering systems during the first three years of operation as follows:

	Increased deliverability (million cubic feet per day)		
	1st year	2d year	3d year
Anadarko Basin	12.2	14.9	18.8
Colorado	8.4	8.0	8.0
Total	20.6	22.9	26.8

Any person desiring to be heard or to make any protest with reference to said application should on or before January 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-775 Filed 1-11-78; 8:45 am]

[6740-02]

[Docket No. ER76-87]

SIERRA PACIFIC POWER CO.

Compliance Filing

JANUARY 5, 1978.

Take notice that Sierra Pacific Power Co. (Sierra) on December 27, 1977, tendered for filing a refund report in compliance with Ordering Paragraph (D) of an Order Approving Settlement issued on June 30, 1977, in Docket No. ER76-87.

Sierra states that this report shows monthly billing determinants and revenues under present and settlement rates, the monthly interest revenue refund, and the monthly interest computation, together with a summary of such information for the total refund period. Sierra further states that a copy of the refund report has been furnished to each state commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before January 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-768 Filed 1-11-78; 8:45 am]

[6740-02]

[Docket No. CP72-53]

TRUNKLINE GAS CO. AND TEXAS GAS TRANSMISSION CORP.

Petition To Amend

JANUARY 6, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the

Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR : *Provided,* That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on Decembver 27, 1977, Trunkline Gas Co. (Trunkline), P.O. Box 1642, Houston, Tex. 77001, and Texas Gas Transmission Corp. (Texas Gas), P.O. Box 1160, Owensboro, Ky. 42301, filed in Docket No. CP72-53 a joint petition to amend the order issued pursuant to section 7(c) of the Natural Gas Act on January 24, 1972 (47 FPC 143), as amended by order issued March 11, 1977 (57 FPC -), so as to authorize the addition of two points of exchange, all as more fully set forth in the petition to amend which is on file with the FERC and open to public inspection.

Pursuant to the order issued January 24, 1972, Trunkline agreed to deliver volumes of natural gas to Texas Gas through Texas Gas' measuring facilities located at Samedan Oil Corp.'s Miami Corp. B-1 Well located in Cameron Parish, La., and Texas Gas agreed to redeliver to Trunkline or its designee the same quantity of gas through existing metering facilities operated by Shell Oil Co. in the Chalkley Field Area located in Cameron Parish, La. By order isued March 11, 1977, Trunkline and Texas Gas were authorized to delete the Chalkley Field exchange point and to add in its place an exchange point at the tailgate of the Continental Oil Co. Egan Plant located in Egan, La.

Pursuant to a letter agreement dated September 28, 1977, Trunkline and Texas Gas propose to add two additional points of delivery between them as follows:

(1) At Union Oil Co. of California's (Union Oil) liquid separation facilities located in North Freshwater Bayou Field, Vermilion Parish, La.

(2) Texas Gas' metering facilities located in North Freshwater Bayou Field, Vermilion Parish, La.

Petitioners state that no new facilities are proposed. It is further stated that the addition of the two points of delivery in the North Freshwater Bayou Field will permit Trunkline and Texas Gas to receive volumes of natural gas from Union Oil for the other company's account and redeliver the volumes received at existing certificated points of exchange. It is asserted that the addition of the proposed exchange points will also allow Trunkline and Texas Gas to eliminate efficiently any imbalances which have occurred or may occur as a result of both companies purchasing volumes of natural gas from Union Oil in the same field.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-776 Filed 1-11-78; 8:45 am]

[6740-02]

[Project No. 2299]

TURLOCK AND MODESTO IRRIGATION DISTRICTS

Renotice of Application for Approval of Revised Exhibits K and R[1]

JANUARY 5, 1978.

Public notice is hereby given that applications for approval of revised Exhibits K and R were filed on September 6, 1974, and September 6, 1977, respectively, under the Federal Power Act (16 U.S.C. 791a-825r) by the Turlock and Modesto Irrigation Districts (Correspondence to: Charles D. Crawford, Project Coordinator, Turlock Irrigation District, P.O. Box 949, Turlock, Calif. 95380; and McCarty and Noone, Counselors at Law, 490 L'Engant Plaza East, Suite 3306, Washington, D.C. 20024) for the Don Pedro Project, FERC Project No. 2299, located on the Tuolumne River, in Tuolumne County, Calif.

Take further notice that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46276 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

Applicants' revised Exhibit K, filed in accordance with Article 35 of the project license, shows the boundary of the constructed project, including transmission line rights-of-way. The revised Exhibit K indicates a total of 18,329.79 acres within the project boundary. Applicants own or have acquired the right to occupy 13,522.57 acres; the remaining 4,807.22 acres are United States lands under the supervision of the Bureau of Land Management.

Applicants' revised Exhibit R indicates that Applicants have constructed, or have under consideration, the following additional recreational facilities:

(1) The Moccasin Point Recreation Area has been extended in a southeasterly direction to provide space for additional camping facilities. A road has also been constructed from Area E to old State Highway No. 49 to provide for evacuation in case of fire as well as additional access. In addition, a small marina is being considered for one of three possible sites: near the mouth of Moccasin Creek, at Kanaka Creek, or at Jacksonville;

(2) In the Mexican Gulch Recreation Area, a high level boat launching ramp (in two sections) and an access road have been constructed. In addition, space has been provided for a concessionaire to store boats in dry storage and to provide a place for house boat maintenance out of view of public roads.

(3) In the Fleming Meadows Recreation Area, a marina has been constructed for a concessionaire to provide full boating services. Two picnic areas have also been converted to camping areas.

All existing and proposed recreation development is within the project boundary.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 1, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed

[1] This notice was previously issued on December 16, 1977, but was not published due to administrative error.

with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspections.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-767 Filed 1-11-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 838-6]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

I. INTRODUCTION

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter the "Act"),[1] I am granting the State of California a waiver of Federal preemption to adopt and enforce the California exhaust emission standards and certification procedures applicable to 1979 through 1982 model year light-duty trucks and medium-duty vehicles.[2] Under section 209(b) of the Act, the Administrator is required to grant the State of California a waiver of Federal preemption, after opportunity for a public hearing, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards.[3] A waiver cannot be granted if he finds that the determination of the State of California is arbitrary and capricious, that the State does not need such State standards to meet compelling and extraordinary conditions, or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed not to be consistent with Section 202(a) if there is inadequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California test procedures are inconsistent. For the reasons given below, I have concluded that I cannot make the findings required for the denial of the waiver under section 209(b) of the Act in the case of these California standards.

In light of the fact that the California Air Resources Board (CARB) has recently taken many actions in this area of emissions regulation, I believe that it is necessary to clarify at the outset the scope of my decision today. This decision is concerned with the 1979 through 1982 model year California light-duty truck and medium-duty vehicle standards considered at the May 16-19, 1977, and October 13, 1977, Environmental Protection Agency (EPA) public hearings, including: (i) the "line-crossing" requirements specified in the California test procedures, as amended on September 30, 1977, for determining compliance with these standards,[4] and (ii) the 0.39 grams per vehicle mile non-methane hydrocarbon (HC) standard and accompanying test procedures applicable to 1980 through 1982 model year lower weight classification (0-3999 pounds inertia weight) medium-duty vehicles.[5] It is also concerned with the following items for which California sought a waiver by letter dated June 9, 1977:

(i) High altitude certification regulations adopted on November 23, 1976, as amended on June 8, 1977,

(ii) Revisions to the 1978 and 1979 California light-duty truck and medium-duty vehicle standards and certification procedures, as amended on June 8, 1977,[6] and

(iii) Vehicle selection procedures applicable to the certification of 1979 and subsequent model year medium-duty vehicles.

In addition, by letter dated July 6, 1977, the CARB informed me that it had taken an additional minor administrative action to correct the model year referenced under a section of the California Administrative Code considered in this decision. This waiver decision will also include this action. However, this waiver decision does not include the waiver requests concerning limitations on allowable maintenance during the certification of 1981 and subsequent model year gasoline-powered light-duty trucks and medium-duty vehicles adopted by the CARB on May 26, 1977, or certification requirements covering the carburetor idle air/fuel mixture adjustment mechanism. It also does not include the waiver request for emission standards applicable to engine families which are certified under the optional 100,000 mile California certification procedure. As mentioned above, these waiver requests will be the subject of a waiver decision to be published in the FEDERAL REGISTER in the near future.

II. DISCUSSION

Public health and welfare. Under one of the criteria of section 209(b) of the Act, I cannot grant a waiver if I find that California's determination that its "standards will be, in the aggre-

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[1] 42 U.S.C. 7543(b), as amended by Pub. L. No. 95-95, 91 Stat. 755 (1977).

[2] As defined by California, the medium-duty vehicle class is a subset of the heavy-duty vehicle category, and is any motor vehicle (except a passenger car) with a gross vehicle weight rating (GVWR) of between 6000 and 8500 pounds. See generally 42 FR 2337 (January 11, 1977).

[3] A public hearing was held on May 18, 1977, pursuant to notice published by the Environmental Protection Agency (EPA) in the FEDERAL REGISTER, see 42 FR 19372 (April 13, 1977), to consider the questions that pertain to today's decision. On September 30, the California Air Resources Board (CARB) found that the standards under consideration in today's decision were, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards. See State of California, Air Resources Board, Resolution 77-48, September 30, 1977. This determination, as well as other questions concerning these standards, were considered at a public hearing held on October 13, 1977, pursuant to notice published by EPA in the FEDERAL REGISTER. See 42 FR 45942 (September 13, 1977). A decision on the other outstanding waiver requests considered during these hearings will be published in the FEDERAL REGISTER in the near future. In addition, a decision on the waiver request considered during the EPA public hearing of August 4, 1977, see 42 FR 36009 (July 13, 1977), will also be published in the FEDERAL REGISTER in the near future. This waiver request was concerned with, among other items, exhaust emission standards applicable to 1983 and subsequent model year light-duty trucks and medium-duty vehicles, and exhaust emission standards applicable to 1981 and 1982 model year light-duty trucks and medium-duty vehicles which are certified under the 100,000 mile certification procedure set forth in paragraph 6 of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977.

[4] These requirements may be found in subparagraph 3(c) of the "California Exhaust Emission Standards and Test Procedures for 1980 and Susequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977. The term "line-crossing," as defined in these procedures, refers to the situation where the durability vehicle interpolated 4,000 or 50,000 mile points on the least-squares fit straight line drawn through the test data points exceed the highest of either the California or Federal exhaust emission standards. This situation does not include the case where no applicable durability vehicle test data point exceeded the applicable standard.

[5] The requirements for demonstrating compliance with this standard are set forth in subparagraph 3(a) of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977.

[6] This item involves actions of an administrative nature. For this reason, I have determined that those actions taken with respect to the 1978 standards and test procedures fall within the scope of a waiver currently in effect, and therefore, do not require a new waiver. See 42 FR 1503, 1504 (January 7, 1977).

gate, at least as protective of public health and welfare as applicable Federal standards" is arbitrary and capricious. On September 29, 1977, the CARB found that the standards under consideration in this decision[7] were, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards.[8] It is clear that the numerical value of each California standard is no greater than that of the comparable Federal standard, making them at least as stringent as the applicable Federal standards.[9] As a result, the California standards are deemed under the Act to be at least as protective of public health and welfare as the Federal standards.[10] Thus, I cannot find that California's determination in this matter is arbitrary and capricious.

Certification and test procedures. Under section 209(b). I also cannot grant a waiver if I find that the California certification and test procedures are in conflict with the corresponding Federal procedures. Ford Motor Co. and American Motors Corp. objected to the inertia weight classification scheme used in these standards since they believed that this scheme would result in a more difficult certification task.[11] They further contended [12] that a waiver should not be granted for these standards since the classification scheme was inconsistent with the schemes otherwise used in promulgating standards under the Clean Air Act and the Energy Policy and Conservation Act.[13] However, I believe that the test of consistency has been met in the case of these standards.[14] The fact that the California certification requirements for the 1979 through 1982 model years may impose reasonable additional testing requirements over those under the Federal certification procedures is not a ground for denying California a waiver in this instance.[15]

In any event, I believe that the classification scheme used by California is merely one way of pursuing its own particular regulatory program. Allowing California to utilize this regulatory approach is fully in keeping with the legislative history behind section 209(b) of the Act. As a result, this question really enters into the waiver decision in reviewing whether California's public health and welfare determination is arbitrary and capricious as well as whether these standards are technologically feasible within the available lead time.

Under certain circumstances a manufacturer may be required to certify a single engine both through vehicle dynamometer certification testing in order to meet the California medium-duty vehicle requirements, and through engine dynamometer certification testing in order to meet the Federal heavy-duty engine requirements. In the event that this situation should arise, I have decided that EPA will accept the data used to successfully certify any vehicle under the California test procedures as demonstrating that the engine in that vehicle complies with applicable Federal standards, and the appropriate Federal certificate of conformity will be issued on this basis.

Lead time and technology. Under section 209(b), I also cannot grant a waiver if I find that California standards and accompanying enforcement procedures are not "consistent with section 202(a)." Section 202(a) states that standards promulgated under its authority "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." In order for California standards to be consistent with section 202(a), it is not required that the requisite technology be developed at present, but rather that the available lead time appear to be sufficient to permit the development and application of that technology.[16]

Ford testified that it supported the waiver request for these standards if the certification mileage accumulation fuel was not required to contain 0.125 grams per gallon of methyl- cyclopentadienyl manganese tricar- bonyl (MMT). No such requirement will

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[7] The California exhaust emission standards under consideration in this decision are as follows (expressed in grams per vehicle mile):

Equivalent inertia weight (lb.)[c]	Hydrocarbons (HC)[d]	Carbon monoxide (CO)	Oxides of nitrogen (NO_x)
Model year 1979			
0 to 3,999[a]	0.41	9.0	1.5
4,000 to 5,999[a]	0.50	9.0	2.0
All[b]	0.9	17.0	2.3
Model year 1980			
0 to 3,999	0.39 (0.41)	9.0	1.5
4,000 to 5,999[a]	0.50 (0.50)	9.0	2.0
All[b]	0.9 (0.9)	17.0	2.3
Model year 1981			
0 to 3,999[a b]	0.39 (0.41)	9.0	1.0
4,000 to 5,999[a b]	0.50 (0.50)	9.0	1.5
6,000 and larger[b]	0.60 (0.60)	9.0	2.0
Model year 1982			
0 to 3,999[a b]	0.39 (0.41)	9.0	1.0
4,000 to 5,999[a b]	0.50 (0.50)	9.0	1.5
6,000 and larger[b]	0.60 (0.60)	9.0	2.0

[a] Light-duty trucks.
[b] Medium-duty vehicles.
[c] Equivalent inertia weight is determined in accordance with 40 CFR 86.129-79(a) as incorporated in the provisions of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977. See 42 FR 32906, 32966, 32967 (June 28, 1977).
[d] Beginning in 1980, the hydrocarbon standard is expressed as a non-methane hydrocarbon standard. Hydrocarbon standards in parentheses apply to total hydrocarbons, or, for 1980 models only, to emissions corrected by a methane content correction factor. The requirements for the demonstration of compliance with this standard are set forth in subparagraph 3(a) of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977.

[8] See supra note 3.

[9] The 1979 and subsequent model year Federal light-duty truck standards are 1.7 grams HC, 18 grams CO and 2.3 grams NO_x per vehicle mile. See 41 FR 56316 (December 28, 1976). The EPA definition of light-duty truck, however, does not include vehicles which have an actual curb weight of greater than 6,000 pounds or which have a basic vehicle frontal area in excess of 46 square feet. Thus, some vehicles within the CARB medium-duty vehicle class will be heavy-duty vehicles for Federal purposes. For these vehicles the applicable Federal standards are as follows:

Engine type	Emission standards (grams per brake horsepower hours)		
	HC	CO	HC+NO_x
Primary standards applicable to 1979 and later[a]			
Gasoline and diesel[b]	1.5	25	10
	.....	25	5
Optional standards applicable to 1979 model year only			
Diesel[c]	1.5	25	10
Gasoline diesel[c]	.....	25	5
Gasoline[c]	1.0	25	9.5

[a] For 1980 and later model years, small volume manufacturers may elect to use current test procedures and certify to the appropriate 1979 model year optional standards. See 42 FR 45132 (September 8, 1977). It should be noted that under the Federal light-duty truck regulations, any heavy duty vehicle 10,000 pounds GVWR or less can be certified as a light-duty truck to the light-duty truck standards.
[b] New test procedures and instrumentation.
[c] Current test procedures and instrumentation.

[10] 42 U.S.C. 7543(b) (2), as added by Pub. L. No. 95-95, 91 Stat. 755 (1977).

[11] See Transcript of Public hearing on California Waiver Request (May 16-May 20, 1977), Volume III, at 399-401, 502 (hereinafter "Tr. of May 1977 Hearing").

[12] See id. at 400, 498-499, 502.

[13] See Pub. L. No. 94-163, 301, 89 Stat. 901, 15 U.S.C. § 2001 et seq. (1975).

[14] See 42 FR 25757 (May 19, 1977).

[15] S. Rep. No. 403, 90th Cong., 1st Sess. 33-34 (1967); Hearings on S. 780 Before the Subcommittee on Air and Water Pollution of the Senate Committee on Public Works, 90th Cong., 1st Sess. pt. 3, at 1765 (1967); 116 Cong. Rec. 30950, 30968 (1967).

[16] See 41 FR 44209, 44210 (October 7, 1976).

exist for certification in California.[17] However, Ford also stated that taking into consideration the road load horsepower parameter requirements for the certification of light-duty trucks, the light-duty truck standards were relatively more stringent than those applicable to passenger cars.[18] Consequently, Ford stated that it had little confidence that it could certify its manual transmission vehicles of 6,000 pounds and below equivalent inertia weight to these standards.[19]

General Motors Corp. expressed serious reservations regarding the ability of its manual transmission trucks to meet the applicable 1979-1982 model year California standards.[20] General Motors further contended that these standards were not technically justified on the basis of the feasibility of the passenger car emission standards because the differences in emission control capability between trucks and passenger cars were not accurately reflected.[21] In this connection it stated, though, that it was primarily concerned with the California HC standard.[22] However, General Motors indicated that it could certify one light-duty truck engine family/transmission combination and possibly two others to these standards if the certification mileage accumulation fuel did not contain MMT.[23]

Chrysler Corp. stated that the technology will probably exist to meet a 1 gram NO_x standard in 1980.[24] Nevertheless, it testified that the granting of a waiver for this standard would result in the elimination of diesel-engines from the California market.[25]

Chrysler further contended that I must deny California a waiver if such a waiver would result in fuel economy penalties which increase the likelihood of one or more manufacturers incurring civil penalties under Title 5 of the Motor Vehicle Information and Cost Savings Act[26] for failing to meet fleet average fuel economy requirements or if such waiver increases the severity of these penalties.[27] I cannot agree. I believe that Congress fully addressed the problems associated with the technological conflicts between fuel economy and emissions control during its consideration of the Energy Policy and Conservation Act and intended that such conflicts would be resolved through reconsideration by the Secretary of Transportation of the average fuel economy standard in light of the California emission standards.[28] Thus, I consider this contention to be relevant only to my consideration of the costs of compliance with these standards, which are discussed below. In any event, based on information submitted to me, I believe that the manufacturers can meet both the California emission standards and the fuel economy requirements through appropriate changes of their sales mix or through the application of technology which is presently available to minimize the influence of these standards on fuel economy.[29]

American Motors testified that its Jeep CJ vehicles with manual transmissions, which constitute approximately 80 percent of the Jeep CJ vehicles sold in California, could not meet the California standards,[30] but that it would be possible to certify its automatic transmission Jeep CJ vehicles to these standards.[31] In addition, American Motors indicated that it would not be able to sell any medium-duty vehicles if the waiver request for the 1981 California standards was granted unless significant technological progress was achieved in the meantime.[32]

Other manufacturers also testified on this question. Volkswagen of America claimed that the light-duty truck standards were not technologically feasible.[33] Assuming no unknown certification problems associated with durability testing, International Harvester Co. testified that the 1981 California medium-duty vehicle standards were technologically feasible.[34] Toyota Motor Co. indicated that the required leadtime was not available to meet the 1979 light-duty truck standards since these standards would require the development and application of large size catalytic converter technology.[35]

[17] See Tr. of May 1977 Hearing, supra note 11, at 389, 394, 398, 402-408, 410-423. General Motors Corp., Chrysler Corp., and American Motors Corp. shared Ford Motor Co.'s concerns with the use of methylcyclopentadienyl manganese tricarbonyl (MMT). See id. at 445-447, 501; letter from Michael W. Grice, Chrysler Corp., to Benjamin R. Jackson, Director, Mobile Source Enforcement Division (MSED), EPA, June 8, 1977. However, on July 7, 1977, the CARB adopted a prohibition against the addition of any manganese additives to fuels sold in California after September 8, 1977. See 13 Cal. Admin. Code § 2254 (1977). As a result, the CARB stated that MMT will not be required in the test fuel for the certification of 1979 and subsequent model year light-duty trucks and medium-duty vehicles. See 13 Cal. Admin. Code § 1960 (1976); letter from G. C. Hass, CARB, to all Motor Vehicle Manufacturers, July 8, 1977.

[18] See Transcript of Public Hearing on California Waiver Request (August 4, 1977), Volume II, at 304-305 (hereinafter "Tr. of August 1977 Hearing"). American Motors also shared this view. See id. at 397-398; Transcript of Public Hearing on California Waiver Requests (October 13, 1977), at 74, 110-119, 130-131 (hereinafter "Tr. of October 1977 Hearing").

[19] See Tr. of October 1977 Hearing, supra note 18, at 75.

[20] See Tr. of May 1977 Hearing, supra note 11, at 432; letter from T. M. Fisher, General Motors Corp., to Benjamin R. Jackson, Director, MSED, EPA, June 17, 1977, at 61; General Motors Corp., "General Motors Statement to the California Air Resources Board on Proposed 1979 and Subsequent Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicle Emission Standards," Los Angeles, Calif., November 23, 1976; Tr. of August 1977 Hearing, supra note 18, at 396.

[21] See Tr. of May 1977 Hearing, supra note 11, at 434-438, 442, 477-482; letter from T. M. Fisher, General Motors Corp., to Benjamin R. Jackson, Director, MSED, EPA, October 11, 1977. American Motors has also raised this issue. See Tr. of May 1977 Hearing, supra note 11, at 497. While specifically commenting on the 1977 California light-duty truck standards, American Motors contended that its four-wheel drive Jeep CJ vehicles designed primarily for off-highway operation with on-highway capability represent a distinct class of vehicles that should be subject to a less stringent set of standards than those applicable to passenger cars. See id. at 504, 518; Tr. of October 1977 Hearing, supra note 18, at 204-206, 209-210; letter from Stuart R. Perkins, American Motors Corp., to Benjamin R. Jackson, Director, MSED, EPA, October 25, 1977. As a result, American Motors contended that the waiver request for the light-duty truck standards should be denied. See id.

[22] See Tr. of October 1977 Hearing, supra note 18, at 192.

[23] See Tr. of May 1977 Hearing, supra note 11, at 447-449, 465, 472.

[24] See Tr. of August 1977 Hearing, supra note 18, at 339-341.

[25] See id.

[26] 15 U.S.C. 2001 et seq. (1975).

[27] See Tr. of August 1977 Hearing, supra note 18, at 341-344, 353-355; Letter from Michael W. Grice, Chrysler Corp., to Benjamin R. Jackson, Director, MSED, EPA, October 28, 1977. General Motors and Ford have raised similar questions with regard to the requirements of the Energy Policy and Conservation Act. Pub. L. No. 94-163, § 301, 89 Stat. 901, 15 U.S.C. 2001 et seq. (1975); see Tr. of May 1977 Hearing, supra note 11, at 400, 433-434; see also Tr. of October 1977 Hearing, supra note 18, at 74-75.

[28] See 15 U.S.C. § 2002 (b), (d), (e), (f) (1975); S. Rep. No. 94-516, 94th Cong., 1st Sess. 149-156 (1975); see also Letter from Kingsley Macomber, CARB, to Mr. Benjamin Jackson, Chief, MSED, EPA, November 10, 1977.

[29] See Letter from Kingsley Macomber to Mr. Benjamin Jackson, supra note 28.

[30] See Tr. of May 1977 Hearing, supra note 11, at 496, 498, 506, 508-514, 520.

[31] See id. at 520.

[32] See id. at 504.

[33] See Letter from J. Kennebeck, Volkswagen of America, Inc., to Director, MSED, EPA, October 21, 1977, at Enclosure-1, 4; see also Tr. of October 1977 Hearing, supra note 18, at 158-160.

[34] See Tr. of May 1977 Hearing, supra note 11, at 532, 538-539.

[35] See Letter from Keitaro Nakajima, Toyota Motor Co., to G. C. Hass, CARB, October 18, 1976.

Finally, the CARB noted that:

• • • emission control hardware similar to that feasible for passenger cars can be used for trucks to achieve exhaust emission levels which are comparable to those which can be achieved by passenger cars.[36]

Hence, the CARB concluded that these standards were technically justified.[37] The CARB also presented 1977 and 1978 certification data provided by the manufacturers showing that 33 light-duty trucks and medium-duty vehicles had met the emissions levels specified under the 1979 light-duty truck standards and that ten light-duty trucks and medium-duty vehicles had certified to the applicable 1981 standards. This data also shows that a fuel injection/three-way catalyst system can be used to certify light-duty trucks to a 1.0 NO_x standard.[38] In specifically referring to American Motors, the CARB indicated that the requisite technology was available in order for manual transmission vehicles to meet the 1979 light-duty truck standards.[39]

May 1977 Hearing, *supra* note 11, at 344, 505, 507, 518.

[36] State of California, Air Resources Board, Staff Report No. 76-22-2(a), November 23, 1976, at 5 (hereinafter "CARB November Staff Report"); see Tr. of May 1977 Hearing, supra note 11, at 343-346; Memorandum from Eric O. Stork, Deputy Assistant Administrator for Mobile Source Air Pollution Control, EPA, to Norman D. Shutler, Deputy Assistant Administrator for Mobile Source and Noise Enforcement, October 31, 1977, at 13-17, 19-21. Although the CARB contended that the 1979 and subsequent model year passenger car standards discussed in Staff Report No. 76-2-2(a) were technologically feasible, this reference to these standards in no way indicates my affirmance of the CARB's contention. See id. at 21.

[37] See Tr. of May 1977 Hearing, supra note 11, at 345, 350-353, 363-373; Tr. of August 1977 Hearing, supra note 18, at 267; CARB November Staff Report, supra note 36, at 10, 21; State of California, Air Resources Board, Staff Report No. 77-13-2, June 22, 1977, at 6-11; Letter from Thomas C. Austin, CARB, to Ben Jackson, Director, MSED, EPA, August 31, 1977, at Attachment V, IX, X; Letter from Thomas C. Austin, CARB, to Benjamin R. Jackson, Director, MSED, EAP, November 1, 1977.

[38] See State of California, Air Resources Board, "Statement of the California Air Resources Board Before the U.S. Environmental Protection Agency Regarding California's Request for a Waiver of Section 209(a) of the Clean Air Act In Order that California May Implement More Stringent Emission Standards and Test Procedures for 1978 and Later Model-Year Motorcycles, Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," San Francisco, Calif., May 16-19, 1977, at 2 (hereinafter "Statement of California Air Resources Board"); Letter from Thomas C. Austin to Benjamin R. Jackson, supra note 37. American Motors stated that such data may not necessarily indicate that this set of standards is technologically feasible. See Tr. of

[39] See CARB November Staff Report, supra note 36, at 9.

In light of the above discussion, as well as the judgment of my technical staff and the ongoing development efforts of the manufacturers,[40] I believe that it is reasonable to conclude that it is possible for vehicle manufacturers to produce light-duty trucks and medium-duty vehicles which can meet the applicable 1979 through 1982 model year standards.

Cost of Compliance. With respect to the cost of compliance with these standards, General Motors could not accurately estimate such figures at this time.[41] American Motors estimated a fuel economy loss of two miles per gallon for its automatic transmission Jeep CJ vehicles due to these standards.[42] International Harvester estimated product tooling and development costs at approximately 7.4 million dollars and a product cost increase of 316 dollars per vehicle over those respective costs for the 1979 model year as a result of the 1981 California medium-duty standards.[43] Consequently, International Harvester recommended that California's waiver request be denied on the grounds of excessive costs of compliance until such time as similar Federal standards were promulgated.[44] Finally, the CARB presented information suggesting that the 1981 light-duty truck standards would result in a retail price increase ranging from zero to 300 dollars over 1980 model year costs with regard to the 1981 light-duty truck standards.[45] In addition, the CARB estimated a fuel economy penalty of five percent associated with the 1979 light-duty truck standards and an additional five percent associated with the 1981 light-duty truck and medium-duty vehicle standards.[46]

In light of the above information, I therefore believe that it is reasonable to conclude that the costs of compliance are not so excessive as to warrant a denial of a waiver on these grounds, given the intent of Congress to leave the decision on controversial matters of public policy to California's judgment.

Objections to Granting the Waiver. General Motors and the Automobile Importers of America (AIA) contended that they had not had an adequate opportunity to comment on the 0.39 non-methane HC standard.[47] The AID did state, though, that it had received notice that such a standard would be considered at the May 16-19, 1977, hearing on May 6, 1977.[48] In light of this statement as well as the fact that the public record remained open for a period of three weeks after the May 16-19, 1977, hearing, I must dismiss this objection.[49] In addition, this standard was further considered at the October 13, 1977, hearing and during the comment period following this hearing in light of the amendments to this standard which delete the methane content correction factor as a method of demonstrating compliance with the HC standard beginning in 1981.[50]

Various witnesses contended at the May 18, 1977, EPA public hearing that any consideration of the California high altitude certification requirements prior to the June 6, 1977, CARB hearing in this matter was premature.[51] In addition, certain manufacturers also expressed concerns with regard to the scope of those requirements originally adopted by the CARB on December 14, 1976.[52] In response to these concerns, the CARB adopted certain amendments to its high altitude requirements on June 8, 1977. These amendments were subject to comment at the August 3-4, 1977, EPA hearing and were found to have eliminated all of the problems raised by the manufacturers in this matter.[53] As a result, this waiver decision includes the high altitude certification requirements as amended on June 8, 1977.

[40] See Memorandum from Eric O. Stork to Norman D. Shutler, supra note 36; Tr. of August 1977 Hearing, supra note 18, at 305-307, 314-316, 318-323, 339-340, 368-369, 390, 393, 405; Letter from D. A. Jensen, Ford Motor Co., to Benjamin R. Jackson, Director, MSED, EPA, July 29, 1977, at Attachments III, IV, V.

[41] See Tr. of May 1977 Hearing, supra note 11, at 433.

[42] See id. at 496.

[43] See id. at 532, 534, 541-542.

[44] See id. at 536-538, 541-542.

[45] See id. at 344.

[46] See id. at 345-346.

[47] See id. at 488, 495, 544, 548-549.

[48] See id. at 548.

[49] See 44 U.S.C. § 1508 (1968).

[50] See supra note 7.

[51] See Tr. of May 1977 Hearing, supra note 11, at 397-398, 543-545, 549-550. These requirements may be found in subparagraph 5(d) of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended June 8, 1977.

[52] See id. at 354, 357, 397-398, 502-503.

[53] See id. at 354, 357, 397; see also State of California, Air Resources Board, "Statement of the California Air Resources Board Before the Environmental Protection Agency, Waiver Hearings," San Francisco, Calif., August 3-4, 1977, at 19-20; Jensen, Donald A., "Statement of Donald A. Jensen, Director, Automotive Emissions and Fuel Economy Office, Ford Motor Co., on CARB Request for Waiver of Pre-emption Of High Altitude Test Requirements for 1980 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," San Francisco, Calif., august 3, 1977; "General Motors Statement to the Environmental Protection Agency Regarding California's High Altitude Test Requirements for 1980 Model Passenger Cars and 1981 Model Light-Duty Trucks and Medium-Duty Vehicles," San Francisco, Calif., August 3, 1977; Letter from G. C. Hass, CARB, to All Light-Duty Vehicle Manufacturers, August 22, 1977; Tr. of August 1977 Hearing, supra note 18, at 261.

Chrysler claimed[54] that these standards may result in a restricted vehicle offering incapable of meeting basic market demand in California contrary to the result in *International Harvester* v. *Ruckelshaus*.[55] I cannot agree. While California's emission standards may limit the number of models of light-duty trucks and medium-duty vehicles which may be sold in California in the future, I conclude, based on the information presented to me, that the range of models of such vehicles should, nevertheless, remain in general what it is today.[56]

General Motors, Ford, and others questioned, among other things, the need for these standards and the wisdom of California's emission control strategy.[57] These questions, as they bear on my review of California's determination regarding whether the California standards under consideration are, in the aggregate, at least as protective of the public health and welfare as the applicable Federal standards, have been discussed above. Beyond that, for the reasons stated in a previous waiver decision, these arguments are not grounds for denying California a waiver. Such arguments all fall within the EPA practice of leaving the decision on controversial matters of public policy to California's judgment.[58]

Ford and Chrysler contended[59] that I must now consider each of the criteria of section 209(b) of the Act in light of the possibility that eligible States may impose the emission control requirements for which a waiver is granted under section 177 of the Act.[60] Ford further argued that I could not grant a waiver unless and until I made an affirmative finding that the basic market demand could be satisfied in all States eligible to adopt and enforce the California standards under section 177 of the Act.[61] However, I cannot agree with the manufacturers' interpretation of my responsibilities under section 209(b) of the Act. That section authorizes me to deny California a waiver only if I have determined that California does not meet the given criteria; it does not require me in granting a waiver to consider the impacts of actions taken by other States under section 177 of the Act.[62] The legislative history behind the Clean Air Act Amendments of 1977 contains no statement to the contrary.[63] More significantly, the legislative history behind the amendments to section 209(b) specifically states that the intent of these amendments was

> * * * to ratify and strengthen the California waiver provision and to affirm the underlying intent of that provision, i.e. to afford California the broadest possible discretion in selecting the best means to protect the health of its citizens and the public welfare.[64]

Furtheremore, in view of the strict limits placed on the authority vested in the States under section 177, Congress believed that such authority "* * * should not place an undue burden on vehicle manufacturers."[65]

Finally, various manufacturers contended that the scope of my review of California's determination pursuant to section 209(b) of the Act should be identical to that delineated under section 307 of the Act in the context of EPA rulemaking.[66] Based on this interpretation, the manufacturers petitioned the EPA to request from the CARB the entire record which was the basis of the CARB's actions in this matter.[67] This record has been submitted by the CARB for my review.[68] However, I can only deny California a waiver under the arbitrary and capricious standard of review of section 209(b) if I find that there is

> * * * clear and compelling evidence that the State acted unreasonably in evaluating the relative risks of various pollutants in light of the air quality, topography, photochemistry, and climate in that State * * *.[69]

As the legislative history behind the Clean Air Act Amendments of 1977 indicates, Congress intended that I would look to section 209(b), not section 307, in determining the scope of my review in a California waiver situation.[70] With respect to the standards here under consideration, as stated previously, California's determination is deemed under section 209(b) not to be arbitrary and capricious because each California standard is at least as

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[54] See letter from Michael W. Grice to Benjamin R. Jackson, supra note 27; Tr. of August 1977 Hearing, supra note 18, at 341. Other manufacturers shared Chrysler's view. See Tr. of October 1977 Hearing, supra note 18, at 75, 159.

[55] 478 F. 2d 615 (D.C. Cir. 1973).

[56] See supra notes 17-39; letter from Thomas C. Austin to Benjamin R. Jackson, supra note 37; memorandum from Eric O. Stork to Norman D. Shutler, supra note 36, at 15. I am not deciding here that the "basic demand" test of *International Harvester* is applicable in the context of a California waiver. Any determination in this matter would be guided by the interpretation of the applicability of *International Harvester* in a California waiver situation as set forth in a previous waiver decision. See 41 FR 44209, 44212, 44213 (Oct. 7, 1976).

[57] See Tr. of May 1977 Hearing, supra note 11, at 338-339, 341, 401, 430-431, 449-451; Tr. of August 1977 Hearing, supra note 18, at 338-339, 344-345, 365-367, 370-372, 374, 376-379, 391; Tr. of October 1977 Hearing, supra note 18, at 74-75, 110-119, 131, 158, 169-172, 206, 213, 223-224; see also letter from Stuart R. Perkins to Benjamin R. Jackson, supra note 21. Information on this question has been presented. See id.; Tr. of May 1977 Hearing, supra note 11, at 350, 384-385, 400; Tr. of August 1977 Hearing, supra note 18, at 262-264; Weinstock, Bernard and Tai Yup Chang, "The Relationship Between Vehicle NOx Emissions and Air Quality," Presented at the California Air Resources Board Photochemical/Transport Workshop at the University of California, Los Angeles, Calif., January 6-7, 1977; Weinstock, Bernard, and Tai Yup Chang, "The Relationship Between Vehicle NOx Emissions and and Air Quality," Progress Report on the NO_2 Problem, June 7, 1977; Glasson, William A., "Smog Chamber Simulation of Los Angeles Pollutant Transport," GMR-2325, EV No. 32, presented to the California Air Resources Board, Los Angeles, Calif., January 6, 1977; memorandum from John P. Eppel and Helen O. Petrauskas, Ford Motor Co., to B. R. Jackson, Director, MSED, EPA, September 9, 1977, at 8-11; State of California, Air Resources Board, "Control Strategies for Oxidant and Nitrogen Dioxide," January 25, 1977; CARB November Staff Report, supra note 36, at 1-5, 28-30; letter from T. M. Fisher, General Motors Corp., to Mr. James McNab III, EPA, November 10, 1977.

[58] See 41 FR 44209, 44210 (Oct. 7, 1976); 42 FR 31639, 31641 (June 22, 1977).

[59] See Tr. of August 1977 Hearing, supra note 18, at 309-311; Tr of October 1977 Hearing, supra note 18, at 140-153; letter from Michael W. Grice to Benjamin R. Jackson, supra note 27.

[60] 42 U.S.C. 7507 (1977), as added by Pub. L. No. 95-95, 91 Stat. 750 (1977).

[61] See memorandum from John P. Eppel and Helen O. Petrauskas to B. R. Jackson, supra note 57, at 12-15.

[62] As has been noted above, I have not decided at the present time whether the "basic demand" test of the *International Harvester* case is applicable in the context of a California waiver. See supra note 56.

[63] See H.R. Rep. No. 95-294, 95th Cong., 1st Sess. 14, 23, 26, 207-217, 301-302, 309-311 (1977); H.R. Rep. No. 95-564, 95th Cong., 1st Sess. 156, 158, 170 (1977).

[64] H.R. Rep. No. 95-294, 95th Cong., 1st Sess. 301-302 (1977).

[65] See id. at 310-311.

[66] See Memorandum from John P. Eppel and Helen O. Petrauskas to B.R. Jackson, supra note 57, at 25-33; Tr. of October 1977 Hearing, supra note 18, at 155-157, 178-180, 182-191.

[67] See id.; see also Letter from Michael W. Grice to Benjamin R. Jackson, supra note 27.

[68] See memorandum from State of California, Air Resources Board, to EPA, October 13, 1977; letter from Kingsley Macomber, CARB, to Mr. Benjamin R. Jackson, Chief, MSED, EPA, October 28, 1977; letter from Kingsley Macomber, CARB, to Mr. Ben Jackson, Chief, MSED, EPA, November 16, 1977; letter from K.D. Drachand, CARB, to MSED, EPA, November 17, 1977; see also Tr. of October 1977 Hearing, supra note 18, at 190-191.

[69] See H.R. Rep. No. 95-294, 95th Cong., 1st Sess, 302 (1977).

[70] See id. at 23, 301-302 (1977); H.R. Rep. No. 95-564, 95th Cong., 1st Sess. 170 (1977).

stringent as the applicable Federal standard.

III Finding and Decision

Having given due consideration to the record of the public hearings of May 18 and October 13, 1977, all material submitted for this record, and other relevant information, I find that I cannot make the determinations required for a denial of the waiver under section 209(b) of the Act, and therefore, I hereby waive application of section 209(a) of the Act to the State of California with respect to the following sections of Title 13 of the California Administrative Code:

Section 1959.5, adopted on June 8, 1977, as amended June 22, 1977, and "California Exhaust Emission Standards and Test Procedures for 1979 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted on June 8, 1977, with respect to 1979 model year light-duty trucks and medium-duty vehicles, and

Section 1960, adopted November 23, 1976, as amended September 30 1977, and "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted on November 23, 1976, as amended September 30, 1977, with respect to 1980 through 1982 model year light-duty trucks and medium-duty vehicles.

As stated above, this decision does not include: (i) The exhaust emission standards under the 100,000 mile optional California certification procedure applicable to 1981 and 1982 model year light-duty trucks and medium-duty vehicles, (ii) the California certification requirements covering the carburetor idle air/fuel mixture adjustment mechanism, and (iii) the limitations on allowable maintenance incorporated by reference in section 1960 of Title 13 of the California Administrative Code under the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles."

In addition, I also find that those actions of an administrative nature taken by the CARB with regard to the 1978 light-duty truck and medium-duty vehicle standards and test procedures fall within the scope of a waiver currently in effect, and therefore, do not require a new waiver.

A copy of the above standards and procedures, as well as the record of these hearings and those documents used in arriving at this decision, is available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, Sacramento, Calif. 95812.

Dated: December 30, 1977.

Douglas M. Costle,
Administrator.

[FR Doc. 78-321 Filed 1-9-78; 8:45 am]

[6560-01]

[FRL 840-8; OPP-180169]

DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Naled To Control the Oriental Fruit Fly in California

The Environmental Protection Agency (EPA) has granted a specific exemption to the Animal and Plant Health Inspection Service, of the U.S. Department of Agriculture (hereafter referred to as "USDA") to use up to 120,000 grams of active naled to eradicate populations of the Oriental Fruit Fly in three counties in California. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the USDA, this recent infestation of the Oriental Fruit Fly (*Dacus dorsalis* Hendel) was first confirmed in the Cypress area of Orange County. Naled eradication treatments began on August 4, 1977, under a crisis exemption promulgated by USDA on that date. Approximately 9 square miles in this county required treatment. In addition, USDA submitted a request for a specific exemption to use the bait lure naled to control the oriental fruit fly. The area of infestation involved Los Angeles, Orange, and San Diego counties in California.

There are no pesticides registered specifically to control the oriental fruit fly because the pest is not endemic to the continental United States. This insect is one of the most destructive pests of fruits and vegetables, the USDA stated. The oriental fruit fly attacks over 150 crop species, including apricots, avocados, citrus, figs, mangoes, papayas, peaches, pears, peppers, and tomatoes, as well as ornamental plants. This insect thus poses a serious economic threat to the fruit and vegetable industries in the United States. The pest has been detected numerous times in the past. The last specific exemption to California for this purpose was granted in November, 1976, and expired on November 22, 1977.

The USDA proposed to use a viscid bait consisting of 88 percent methyl eugenol, five (5) percent naled, and seven (7) percent Thixcin-E. Each bait spot or station (6-inch diameter spot) requires approximately 0.25 gram of naled applied by hand equipment to telephone poles, other inanimate objects, and host trees in the infested areas. Applications will be out of the normal reach of children and pets. Applications will be made at least eight times at two-week intervals. A maximum of 120,000 grams of naled will be applied in the three counties.

Naled (Dibrom) is registered for use on citrus crops as a foliage application at a rate of application considerably higher than the dosage rate to be used for oriental fruit fly control. Methyl eugenol is an attractant and Thixcin-E is a thickening agent, both of which pose no known threat to man or the environment. The controls proposed will be adequate to prevent misuse of the pesticides and prevent any serious short- or long-term adverse environmental effects.

Because of intense quarantine practices, the oriental fruit fly has not gained a strong foothold in the continental United States; however, it will continue to be a threat to American agriculture, particularly since it is now present in Hawaii. Since this pest has a very broad host range and a short and prolific life cycle, eradication measures must be taken immediately upon detection of this insect in a given area.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the oriental fruit fly has occurred; (b) there is no pesticide presently registered and available for use to control this pest in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the oriental fruit fly is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the USDA has been granted a specific exemption to use the pesticides noted above until October 25, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The pesticide naled will be applied as a lure bait consisting of 88 percent methyl eugenol, 7 percent Thixcin-E, and 5 percent naled. The dosage rate of each bait or spot station will be 0.25 grams naled or approximately a 6 inch

diameter spot on host tree trunks, telephone poles, and other inanimate objects;

2. Up to 120,000 grams may be applied;

3. Only trained personnel of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, USDA, and the California Department of Food and Agriculture will make the applications of the lure bait. Applications will be out of the normal reach of children and pets;

4. Applications will be made at least 8 times at 2-week intervals. There will be approximately 600 stations per square mile (6 to 8 stations per city block);

5. Application for registration for naled to control oriental fruit fly must be submitted before the expiration of this specific exemption;

6. A report summarizing the results of this eradication program must be submitted within one year of the expiration date of this exemption; and

7. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: January 6, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-754 Filed 1-11-78; 8:45 am]

[6560-01]

[FRL 841-1; PF83]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

Conrel, Inc., an Albany International Co., 735 Providence Highway, Norwood, Mass. 02062, has submitted a petition (PP 7F2003) to the Environmental Protection Agency (EPA) which proposes that 40 CFR be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide gossyplure (1:1 mixture of (*Z,Z*- and *Z,E*-7,11-hexadecadien-1-o1-acetate) in or on the raw agricultural commodity cottonseed. The proposed analytical method for determining residues is gas chromatographic analysis using flame ionization. Notice of this submission is given pursuant to the provisions of section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 17, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while the petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated January 3, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-755 Filed 1-11-78; 8:45 am]

[6560-01]

[FRL 841-2; PF85]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

Monsanto Agricultural Products Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, has submitted a petition (PP 8F2021) to the Environmental Protection Agency (EPA) which purposes that 40 CFR 180.364 be amended by establishing a tolerance for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity avocados at 0.2 part per million. The proposed analytical method for determinig residues is a gas-liquid chromatography technique using a phosphorous-specific flame photometric detector.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-2632. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 4, 1978.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 78-756 Filed 1-11-78; 8:45 am]

[6560-01]

[(FRL 840-7); OPP-30000/23A]

PESTICIDE PROGRAMS; CERTAIN PESTICIDE PRODUCTS CONTAINING BENOMYL

Extension of Period for Submission of Rebuttal Evidence and Comments

On November 23, 1977, the Environmental Protection Agency (EPA) issued a notice of presumption against registration and continued registration of pesticide products containing the ingredient benomyl. This notice was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61788). The regulations governing rebuttable presumptions provide that the applicant or registrant of such pesticide products shall have forty-five (45) days from the date such notice is sent to submit evidence in rebuttal of the presumption. However, for good cause shown, an additional sixty (60) days may be granted in which such evidence may be submitted [40 CFR 162.11(a)(1)(i)].

A request for an additional 60 days in which to present evidence to the Agency has been received from one of the major registrants who was affected by the notice of presumption. The requester has specified a need for additonal time to obtain, review, and reanalyze data and other information in order to adequately rebut and respond to this notice.

The Agency agrees that additional time would be beneficial for the submission of complete and accurate responses to this notice of presumption. Therefore, because good cause has been shown, all registrants, applicants for registration, and other interested persons shall have until March 24, 1978, to submit rebuttal evidence and other comments or information. Such evidence, comments or other information relevant to the presumption against registration and continued registration should be submitted to the Federal Register Section, Technical Services Division (WN-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the efforts of the Agency and of others interested in inspecting them. All comments should bear the indentifying notation "OPP-30000/23A". Comments and information received on or before March 24, 1978, shall be considered before it is determined whether a notice shall be issued in ac-